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In re Application of :
KLEIN, et al. :
Application No.: 09/720,287 : COMMUNICATION
PCT No.: PCT/EP99/03922 :
Int. Filing Date: 08 June 1999 :
Priority Date: 25 June 1998 :
Attorney Docket No.: RO0208US :
For: TRANSDERMAL THERAPEUTIC :
SYSTEM CONTAINING HORMONES :
AND CRYSTALLIZATION INHIBITORS :

The above-identified application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 08 June 1999, applicant filed international application PCT/EP99/03922, which claimed priority of an earlier application filed 25 June 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 September 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 December 2000.

On 22 December 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application as filed; an English translation of the international application; a copy of the international examination report and a copy of the International Search Report. An executed oath or declaration of the inventors was not filed.

On 12 February 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and NOTICE OF DEFECTIVE TRANSLATION (Form PCT/DO/EO/913) informing applicant that the filed translation was defective as to the translation of claim three. Applicant was informed of the need to provide the \$130.00 processing fee for providing the translation of the international application later than thirty months from the priority date. Applicant was given one month to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 10 May 2001 2000, applicant responded with a combined declaration and power of attorney executed by all of the named inventors, a request for a two-month extension of time, credit card payments of \$130.00 and \$195.00; a "Response to Notice of Defective Translation." With the filing of the petition for a two-month extension of time the response is considered timely filed.

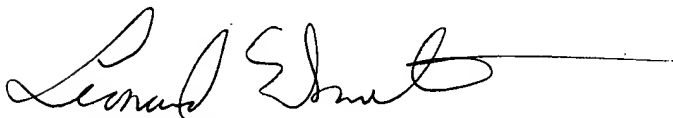
DISCUSSION

The declaration filed 10 May 2001 is acceptable under 37 CFR 1.497. In addition, applicant has provided an explanation sufficient to show that the translation of claim three is correct and true. This explanation has been verified by a German language specialist at the USPTO. A review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied. As the originally filed translation was correct applicant will not be charged the \$130.00 processing fee for providing the translation of the international application later than thirty months from the priority date. However, applicant only provided the small entity petition fee for a two-month extension of time. Applicant has not claimed small entity status. Therefore, as authorized, Deposit Account 08-2441 will be charged \$195.00 as payment of the remainder of the large entity petition fee.

It is noted that applicant included payment of the \$130.00 large entity surcharge for filing an oath or declaration later than thirty months from the priority date.

CONCLUSION

This application is being returned to the DO/EO/US for processing in accordance with this decision, including according the application a date of **10 May 2001** under 35 U.S.C 371(c).



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